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OCT 17 2001

Atty Dkt No. 1300-2329

TECH CENTER 1600/2900



COMBINED DECLARATION AND POWER OF ATTORNEY
FOR UTILITY PATENT APPLICATION

AS A BELOW-NAMED INVENTOR, I HEREBY DECLARE THAT:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if more than one name is listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled: HIGHLY SENSITIVE GENE DETECTION AND LOCALIZATION USING *IN SITU* BRANCHED-DNA HYBRIDIZATION, the specification of which

 is attached hereto
 X was filed on June 1, 2001

and assigned Serial No. 09/872,493 and was amended on _____.

I HAVE REVIEWED AND UNDERSTAND THE CONTENTS OF THE ABOVE-IDENTIFIED SPECIFICATION, INCLUDING THE CLAIMS, AS AMENDED BY ANY AMENDMENT REFERRED TO ABOVE.

I acknowledge and understand that I am an individual who has a duty to disclose information which is material to the patentability of the claims of this application in accordance with Title 37, Code of Federal Regulations, §§ 1.56(a) and (b) which state:

- (a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is canceled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is canceled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was

violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

- (1) prior art cited in search reports of a foreign patent office in a counterpart application, and
 - (2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.
- (b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and
- (1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or
 - (2) It refutes, or is inconsistent with, a position the applicant takes in:
 - (i) Opposing an argument of unpatentability relied on by the Office, or
 - (ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

I do not know and do not believe this invention was ever known or used in the United States of America before my or our invention thereof, or patented or described in any printed publication in any country before my or our invention thereof or more than one year prior to said application. This invention was not in public use or on sale in the United States of America more than one year prior to this application. This invention has not been patented or made the subject of an inventor's certificate issued before the date of this application in any country foreign to the United States of America on any application filed by me or my legal representatives or assigns more than one year prior to this application.

I hereby claim priority benefits under Title 35, United States Code § 119(e)(1) of any United States provisional application(s) for patent as indicated below. I hereby claim benefit under Title 35, United States Code § 120 of any United States Patent application(s) listed below and, insofar as the subject matter of each of the claims of this application are not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, section 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulation, section 1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application.

Application No.	Date of Filing (day/month/year)	Priority Claimed
60/209,139	June 2, 2000	Yes <u>X</u> No <u> </u>

I hereby appoint the following attorneys and agents to prosecute that application and to transact all business in the Patent and Trademark Office connected therewith and to file, to prosecute and to transact all business in connection with all patent applications directed to the invention:

Dianne E. Reed, Reg. No. 31,292
J. Elin Hartrum, Reg. No. 43,663
Mark A. Wilson, Reg. No. 43,275
Louis L. Wu, Reg. No. 44,413
Julie J.L. Cheng, Reg. No. 33,848
Andrew L. Klawitter, Reg. No. 26,557
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Address all correspondence to Mark A. Wilson at:


REED & ASSOCIATES
3282 Alpine Road
Portola Valley, California 94028

Address all telephone calls to Mark A. Wilson at (650) 851-8501.

This appointment, including the right to delegate this appointment, shall also apply to the same extent to any proceedings established by the Patent Cooperation Treaty.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under § 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

First Joint or Sole inventor:

Signature:  Date: 8/19/2001
Full Name of Inventor: Daryn Kenny
Citizenship: United States of America
Residence: Moraga, California
Post Office Address: 2087 Donald Drive, Moraga, California 94556

Second Joint inventor:

Signature: Lu Ping Shen Date: 9/19/01
Full Name of Inventor: Lu Ping Shen
Citizenship: China
Residence: San Leandro, California
Post Office Address: 14578 Tiburon Road, San Leandro, California 94577

Third Joint inventor:

Signature: Vincent Antao Date: 9/20/01
Full Name of Inventor: Vincent P. Antao
Citizenship: United States of America
Residence: Berkeley, California
Post Office Address: 2017 Berkeley Way #11, Berkeley, California 94704

Fourth Joint inventor:

Signature: _____ Date: _____
Full Name of Inventor: Audrey N. Player Audrey N. Player 9/11/01
Citizenship: United States of America
Residence: Silver Springs, Maryland
Post Office Address: 805 Heron Drive, Silver Springs, Maryland 20901

Fifth Joint inventor:

Signature: _____ Date: _____
Full Name of Inventor: Wei Cao
Citizenship: China
Residence: Shanghai, China
Post Office Address: Apt. 501 #11 Jin Lu House, Lane 79, Rong Hua West Avenue, Gu Bei New District, Shanghai 201103, China

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First Joint or Sole inventor:

Signature: _____ Date: _____
Full Name of Inventor: Daryn Kenny
Citizenship: United States of America
Residence: Moraga, California
Post Office Address: 2087 Donald Drive, Moraga, California 94556

Second Joint inventor:

Signature: _____ Date: _____
Full Name of Inventor: Lu Ping Shen
Citizenship: China
Residence: San Leandro, California
Post Office Address: 14578 Tiburon Road, San Leandro, California 94577

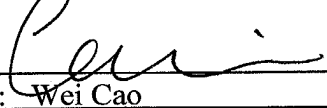
Third Joint inventor:

Signature: _____ Date: _____
Full Name of Inventor: Vincent P. Antao
Citizenship: United States of America
Residence: Berkeley, California
Post Office Address: 2017 Berkeley Way #11, Berkeley, California 94704

Fourth Joint inventor:

Signature: _____ Date: _____
Full Name of Inventor: Audrey N. Player
Citizenship: United States of America
Residence: Silver Springs, Maryland
Post Office Address: 805 Heron Drive, Silver Springs, Maryland 20901

Fifth Joint inventor:

Signature:  Date: Aug. 27, 2001
Full Name of Inventor: Wei Cao
Citizenship: China
Residence: Shanghai, China
Post Office Address: Apt. 501 #11 Jin Lu House, Lane 79, Rong Hua West Avenue, Gu Bei New District, Shanghai 201103, China

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New address:
22B, ELite Gardens
3131 Hong Mei Road
Shanghai, 201103
CHINA